

# MARYLAND GAZETTE.

THURSDAY, FEBRUARY 17, 1803.

Annapolis, February 17.

JOHN MACKALL GANTT, Esq; is appointed chief justice of the first district of the state of Maryland, vice the honourable RICHARD SPRIGG, Esq; who was appointed a judge of the general court.

## Laws of Maryland.

PASSED NOVEMBER SESSION, 1802.

*A Supplement to an act for amending, and reducing into system, the laws and regulations concerning last wills and testaments, the duties of executors, administrators and guardians, and the rights of orphans and other representatives of deceased persons.*

**BE** it enacted, by the General Assembly of Maryland, That if an executor or administrator conceives that he hath not assets sufficient to discharge the claim, or any part thereof, for which a suit shall be brought against him, he may plead the fact, and a trial by jury shall be had thereupon; and if, on any trial so had against an executor or administrator, and the debt or demand of the plaintiff shall be contested, and there be any other issue joined than upon the subject of assets, the jury, if they find for the plaintiff upon the issues so to be joined, and the amount of assets so found by them be less than the debt or demand of the plaintiff, they shall declare the amount of the debt or demand, and likewise the sum to be paid by the defendant to the plaintiff, regard being had to the amount of assets in hand, and the debts due from the deceased, the court shall thereupon enter judgment against the defendant for the penalty of the bond, or damages laid in the plaintiff's declaration, and cost of suit, if the court shall so direct, which said debt or damages shall be released upon the payment of the sum ascertained to be paid by the verdict of the jury, and interest thereon from the time of rendering the said judgment, which said sum, so ascertained to be paid by the verdict of the jury, is to be levied of the goods and chattels of the deceased, or of the proper goods and chattels of the defendant, and residue of the debt or damages, so ascertained as aforesaid, is to be levied of the goods and chattels of the deceased which may hereafter come to the hands of the defendant to be administered, with interest as aforesaid, or of the proper goods and chattels of the defendant; and if such goods and chattels shall thereafter come to the hands of the defendant, as executor or administrator as aforesaid, or into the hands of any other person who may have authority to administer the goods of the deceased, the plaintiff may issue on the said judgment a writ *scire facias*, suggesting the coming of assets to the hands of the executor or administrator, liable and subject to the payment of the residue of the said debt or demand, with interest as aforesaid to due, upon which, if the defendant contests the same, there shall be a trial by jury as aforesaid; provided nevertheless, that in all cases where the amount of the claim of the plaintiff has been ascertained, by confession or otherwise, in any case now depending in any court, and the same has been referred to an auditor to ascertain the sum for which judgment shall be entered agreeable to the provisions of the act to which this is a supplement, that the auditor, previous to his marshalling the assets, shall cause notice to be given to the executor or administrator of the time and place of his proceeding to marshal the assets as aforesaid, and should it appear to the auditor that there has been no full and final account passed by the orphans court, he shall nevertheless proceed to marshal the assets, and ascertain as aforesaid, from the papers which may be produced to him, unless it shall be made appear to him, by a certificate from the orphans court, that there has been good cause why such full or final account has not been passed by such executor or administrator.

**And be it enacted,** That the crop growing on the land of any deceased person at the time of his or her death, except where the land is devised, shall be considered, and is hereby declared, to be assets in the hands of an executor or administrator, and shall be included in the inventory to be taken and returned according to the original act.

**And be it enacted,** That any person who may conceive him or herself aggrieved by a judgment, decree, decision or order, of the orphans court, may appeal to the county court of the county where such judgment, decision or order, may be made, and that on such appeal the county court shall have the same power, jurisdiction and authority, that the general court or chancery court would have had on an appeal to either of those courts under the original act; provided nevertheless, that nothing herein contained shall be construed to affect the right of appeal from the orphans court to the court of chancery or general court, as allowed by the act to which this is a supplement.

**And be it enacted,** That the registers of wills in their respective counties, in the recess of the orphans court, shall and they are hereby authorized and empowered to pass any account against the estate of any deceased person where the amount of such account or claim doth not exceed the sum of fifty dollars.

**And be it enacted,** That in all cases where letters have issued, or hereafter may issue, to any person to collect and preserve the estate of a deceased person, it shall and may be lawful for such collector, after complying with the requisites prescribed by the said original act, to bring suits for the recovery of debts, or other property of the deceased, in the same manner as an executor or administrator might or could do; and that the property recovered or received by the collector shall be delivered to the person obtaining the letters testamentary or of administration; and in case of neglect or refusal, such collector may be proceeded against in the same manner as prescribed by said act; provided, that in case such letters shall be revoked, pending any such action, either by the express revocation of the court who issued the same, or by the granting of letters testamentary or of administration on the same estate, there shall be the same proceedings, and the executor or administrator, as the case may be, shall have the same authority and control over any

such action, as in cases where the letters testamentary or of administration of any plaintiff are or shall be revoked.

**And be it enacted,** That if any letters testamentary or of administration shall be revoked by the orphans court, and new letters granted, pending any action at law or in equity against any person appointed an executor or administrator by such letters so revoked, there shall be the same proceedings in the action upon the suggestion of such revocation of the letters as is directed by the act of the twenty-fourth and eighty-five chapter eighty, in cases where the defendant shall have died pending such action, and in case there had been a judgment rendered previous to the revocation of the letters, a *scire facias* shall issue upon such judgment against the proper executor or administrator, suggesting the revocation of the letters of the former executor or administrator, and there shall be the same proceedings as in ordinary cases against executors and administrators, but if the letters testamentary or of administration of the plaintiff be revoked pending such action, or after judgment as aforesaid, there shall be the same proceedings as is provided by the fourth section of the fifth chapter of the act to which this is a supplement.

**And be it enacted,** That in case a judgment shall be obtained against any executor or administrator, made a defendant as aforesaid, and it shall not be found by the jury that such executor or administrator has assets sufficient to discharge the same, the plaintiff in such judgment may also issue a *scire facias* on such judgment against the executor or administrator whose letters have been revoked as aforesaid, suggesting that such executor or administrator, as the case may be, did receive assets of the deceased liable to such judgment, more than was paid over or delivered by such executor or administrator to the person or persons obtaining the said letters testamentary or of administration, and in case the same shall be controverted, it shall be ascertained and determined by a jury, in the same manner as in cases of *scire facias*, suggesting assets against the second executor or administrator, and in case of a verdict and judgment being given against such former executor or administrator, execution may issue thereon in the same manner as against other executors or administrators, and the plaintiff may also proceed against the securities in the same manner as against the securities of an executor or administrator whose letters have not been revoked.

**And,** whereas compelling an executor or administrator to take notice of all judgments and decrees against the deceased is productive of great inconvenience, as well to the executor or administrator as to the other creditors, in as much as he cannot, with safety, pay off other debts, though the said judgments or decrees may be fully discharged, unless such executor or administrator is in possession of the receipt or other legal evidence of the payment; and it appearing proper, that such creditors, as to the manner and time of producing their claims, should be placed in the same situation as others, therefore, **Be it enacted,** That an executor or administrator shall not be bound to take notice of or discover any judgment or decree against his or her deceased, but such judgment or decree creditor shall exhibit his claim in the same manner as other creditors, and in case the same shall not be exhibited, such claim shall be barred in the same manner as if it rested on bond or simple contract; provided, that nothing herein contained shall extend, or be construed to extend, to deprive such creditor of the preference given by the original act in cases where the claim is in due time exhibited.

**And be it enacted,** That in no case shall the order made by the orphans court, or by the register of wills, that an account or claim will pass when paid, be deemed of validity to establish such account or claim, but in case the executor or administrator thinks fit to contest the same, such account or claim shall derive no validity from the order aforesaid, but shall be proved in the same manner as if no such order had been made.

**And be it enacted,** That in all cases where suits have been brought, and are now depending, against an executor or administrator, the same shall be proceeded on according to the provisions of this act; provided, that to enable such executor or administrator to plead such new matter or plea as this alteration of the law may require, and to support the same by evidence, it shall be lawful for the court before whom such suit may be depending to continue such suit until the end of the third term after the term to which such suit might have been continued before the passage of this act.

**And,** whereas the personal property of deceased persons, who have died or shall die intestate, without leaving representatives within certain degrees of consanguinity by the acts of seventeen hundred and nineteen, chapter fourteen, and seventeen hundred and twenty-nine, chapter twenty-four, devolved on the free schools of the county of the deceased; and in most of the counties the free-schools having been abolished, the executor or administrator of such deceased persons have retained the property to their own use and benefit; **Be it enacted,** That in all instances where by law the property of deceased persons would have descended or devolved on the free-schools of any county, if such free-schools had existed, the same shall be, and it is hereby declared to be, the property of the college, if any, in such county, or if none, the property of any school to which the public aid by law has been or may be extended, and if none, to go to the county where the property of such person or persons so dying may lie; and that the trustees of the college or school, or the justices of the levy court, respectively, as the case may be, shall have the same right, power and authority, to sue for and recover such property, as the witnesses, trustees or governors, of any such free-school might or could have done; saving to the different schools in this state the rights which, by existing laws, they now respectively possess.

**And be it enacted,** That all monies or other property recovered or obtained under this act, if by a college or school, shall be applied in the same manner that other public funds granted them are to be applied, and if by the levy court, towards the discharge of the levy, or for the support of schools in the county, as the justices of the court may determine on.

**And be it enacted,** That the seventh, eighth and ninth sections of chapter eight, and such other parts, of the act to which this is a supplement, as are repugnant to the provisions of this act, be and the same are hereby repealed.

New-York, February 9.

Latest from London.

By the English ship Friends, captain Howell, from London, the editors of this gazette, (through a valuable friend) have received London papers and Lloyd's List to the 10th of December inclusive—six days later than heretofore received.

Here follows a summary of extracts.

A letter from Paris, to the editor of the True Briton, mentions, that the French government was determined to persevere in its attempts to reduce to subjection the blacks at St. Domingo.

The brother of prince Ruspoli, who has been elected grand master of Malta, has declined accepting that dignity, and states his reasons for the refusal.

A great irritation still prevailed between the Turkish and English troops in Egypt. Several bloody affairs had been between them. The English general had thought it proper to require the Turks to restore the forts of Alexandria, which have been already ceded to them, as necessary for his security, till the final evacuation of the city; but with this request they have refused to comply. The English, however, still remain in possession of Alexandria.

It was reported, that during the visit of the first consul at Havre, one of the soldiers in the corps of Mamelukes made an attempt to assassinate him; the soldier is stated to have nearly drawn his sword when his arm was arrested by some of the attendants of the chief consul—the fellow was hurried to a dungeon, and Buonaparte is stated to have directed that no mention should be made of the occurrence.

PARIS, December 10.

We learn from the Hague, that the embarkment of the 5th and 17th demi-brigades of French troops, destined for Louisiana, will take place immediately; that already forty vessels for transports have arrived from Dunkirk at the mouth of the Meuse, to take them on board, and carry them to the place of destination.

BOURDEAUX, December 8.

The frigate Furieuse and other vessels have left the port of Brest, to join the naval expedition destined for Louisiana; she has on board a number of persons who are to be employed in that colony.

LONDON, December 6.

All vessels arriving in the ports of Denmark from the United States of America, are, by order of his Danish majesty, to be subjected to the visit of an officer of health, and are forbidden to have any communication with the shore, until that formality is complied with.

In letters from Paris, it is stated, that the first consul has lately ordered the strictest regulations of police at St. Cloud. From a certain hour at night, no person is permitted to walk about the village. The park is kept shut in every part but one, and only the alley bordering on the Seine is allowed to the people to take the air. Many old inhabitants of the place, unaccustomed to this restraint, are endeavouring to sell their houses, which are, beside this, heavily encumbered, by having the consular guards quartered upon them.

December 9.

The Paris papers received yesterday present a most melancholy and awful spectacle, which, if true, may for a moment of reflection, supercede every other consideration. They communicate accounts of the destruction of Constantinople, one of the greatest cities in the world, by an earthquake, on the 28th of October. This is certainly one of the most awful and impressive events in history. It is to be hoped, that the disaster has been greatly exaggerated by the fears of those who were present and escaped. Constantinople is more than six times the magnitude of the city of Lisbon, the fate of which in the year 1765, excited the commiseration of all Europe. In its extent it is inferior, though equal in population to the city of London, the inhabitants being crowded much closer together, and the streets extremely narrow.

If fear and report have not magnified this terrible event, there is not to be found in the history of mankind a catastrophe equally extensive, and where the lives of so many human beings were terminated in a moment. The revolutions which the hand of man brings about are sometimes dreadful indeed; but every thing effected by human power diminishes before so great and mighty an event which it is impossible to contemplate without a mixture of consternation and horror. There are no other grounds to go upon in hoping that the disaster is less extensive than represented, unless the never-failing experience that whatever is awful and terrible is always exaggerated. We hope most sincerely that it may prove to be so in the present instance.